

# **CHAPTER 11**

## **CABLE COMMUNICATIONS**

### **Section 1101. Adoption of County law**

Chapter 8A of the Montgomery County Code (1984) as amended, entitled "Cable Communications," is hereby adopted, incorporated by reference and enacted as the cable communications ordinance of the Town with the additions and amendments as set forth in this chapter. All of the rights of Montgomery County as set forth in Chapter 8A shall also be held by the Town of Garrett Park for that portion of any cable communications system within the Garrett Park Town boundaries.

### **Section 1102. Sections added**

Chapter 8A of the Montgomery County Code (1984), as amended adopted by this chapter, is hereby amended by adding the following additional sections:

(a) Section 8A-3(w)(1). "Town" means the Town of Garrett Park, Maryland, an incorporated municipality. Notwithstanding anything to the contrary contained herein, the corporate area of the Town of Garrett Park shall be included within the geographical areas of the County to which this law applies.

(b) Section 8A-6(e). Approval by the Town of Garrett Park. Whenever in this chapter the approval of the County is required, a franchisee shall also be required to obtain the approval of the Town of Garrett Park for that portion of the franchise within the Town boundaries, which approval shall not be unreasonably withheld.

(c) Section 8A-10(e). Indemnity. A franchisee must, at its sole cost and expense, indemnify, hold harmless, and defend the Town of Garrett Park, its officials, boards, commissions, agents and employees against any claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system regardless of whether the act or omission complained of is authorized, allowed or prohibited by the franchise. This requirement includes claims arising out of copyright infringement or a failure by the franchisee to secure consent from the owner, authorized distributor, or licensee of a program to be delivered by the cable system.

(d) Section 8A-17(d)(1). Relocation of facilities. The Town of Garrett Park shall have the same right to require relocation of facilities within the Town as the County has pursuant to section 8A-17(d).

(e) 8A-30(d). Termination of County authority. In the event authorization to the County to administer or enforce the franchise effective within the Town is terminated, the Town of Garrett Park shall have all of the rights otherwise reserved to the County under this ordinance. Notwithstanding anything to the contrary contained herein, the Town of

Garrett Park reserves the right to exercise the power of eminent domain to acquire the property of any cable communications system, and to own and/or operate such system.

(f) Section 8A-22(j). No requirement to renew. Nothing in this ordinance or any franchise shall require renewal of any franchise by the Town nor shall renewal be presumed.

(g) Section 8A-22(k). In case of non-renewal because of unsatisfactory performance as determined by the County or the Town of Garrett Park, compensation for the existing value of installations shall be as provided in the franchise agreement. The Town of Garrett Park, with the approval of the Town Council, shall have the option to purchase all assets or property of the franchisee at depreciated value.

(h) Section 8A-22(1). Where the franchisee has performed to the satisfaction of the County and the Town, but the franchise is not renewed for public interest reasons other than dissatisfaction with performance, the Town, with the approval of the Town Council, shall have the option to purchase the system at fair market value.

### **Section 1103. Sections amended.**

Chapter 8A, Sections 8A-29(c) and 8A-29(d), of the Montgomery County Code (1984), as amended, adopted by this chapter, are hereby amended to read as follows:

(a) Section 8A-29(c). The following actions must be approved by the Town Council:

- (1) Granting or renewing a franchise;
- (2) Approving a transfer of a franchise;
- (3) Revoking a franchise;
- (4) Buying or selling a cable system within the Town by the County; and
- (5) Modifying a franchise agreement in a manner that substantially alters material provisions of the franchise.

(b) Section 8A-29(d). The Town Council may approve any of the foregoing actions by resolution.

### **Section 1104. Regulations**

(a) All regulations now adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984) as amended, are hereby incorporated by reference and shall be deemed to be effective within the Town, unless such regulations conflict with this Code or regulations established by the Town of Garrett Park.

(b) All regulations or amendments to regulations hereafter adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984), as amended, shall become effective within the Town upon the effective date thereof unless a regulation or an ordinance shall be adopted by the Town Council disapproving such amendments or unless such County regulations conflict with this Code or regulations established by the Town of Garrett Park.

**Section 1105. Authorization to administer and enforce**

The County is hereby requested and authorized to administer and enforce the cable communications ordinance of the Town and any franchise granted by the Town Council, within the corporate limits of the Town, as fully and to the same extent as the County enforces and administers Chapter 8A and any franchise which is effective in the unincorporated area of the County.

**Section 1106. Other ordinances**

Nothing herein shall in any way be construed as exempting the franchisee from compliance with any other applicable ordinance of the Town now or hereafter enacted.

**Section 1107. Prior acts ratified and adopted**

All actions taken prior to the effective date of this ordinance by the Mayor and/or Town Council to grant, enforce or to administer any cable communications franchise are hereby ratified and adopted and shall be effective in all respects as if taken pursuant to this ordinance.

[Ord. 1999-04, adopted 7/12/1999]